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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,948	11/08/2001	John Patrick Wong	NC25921	8448

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EXAMINER

CHIANG, JACK

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,948

Applicant(s)

WONG ET AL.

Examiner

Jack Chiang

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8, 13, 14 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 13, 14, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

CLAIMS

112 Second Paragraph Rejection

1. Claim 1 recites the limitation "the at least one speaker port" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Art Rejection

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hawker et al. (US 5790679).

Regarding claim 1, Hawker shows a hands-free speakerphone (col. 1, lines 7-10) comprising:

A speaker element (20);

A housing (10) for enclosing the speaker element (20), the housing comprising:

A front face (front) having a user interface (24) and a peripheral edge (side edge);

A back face (back);

A peripheral face (side faces) extending between the front and back faces along at least a substantial portion of the peripheral edge;

Wherein the housing (10) forms an elongated recess (44 in fig. 1) on the peripheral face (side face), the elongated recess (44) being in communication with at least one speaker port (40 or 42), the elongated recess (44) being of sufficient length and width so as to reduce the risk of a seal forming between the housing (10) and a user's ear.

4. Claims 1-2, 5, 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Collin (US 6148080).

Regarding claim 1, Collin shows a hands-free speakerphone (col. 1, lines 8-17) comprising:

A speaker element (3);

A housing (figs. 3, 5-7) for enclosing the speaker element (3), the housing comprising:

A front face (12) having a user interface (13) and a peripheral edge (side edge);

A back face (back, opposite to 12);

A peripheral face (side face, i.e. 19) extending between the front and back faces along at least a substantial portion of the peripheral edge;

Wherein the housing (figs. 5, 5-7) forms an elongated recess (24, 26) on the peripheral face (side face), the elongated recess (24, 26) being in communication with at least one

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speaker port (see 16), the elongated recess (24, 26) being of sufficient length and width so as to reduce the risk of a seal forming between the housing and a user's ear.

Regarding claims 2, 5, 6, Collin shows:

The outer surface (i.e. location of 24, 26) possesses curvature to reduce the risk of sealing being formed between the speakerphone and the ear of a user;

Speaker ports in spaced relationship (26).

5. Claims 3-4, 8, 13, 14, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Collin in view of Andersen (US 6658110).

Regarding claim 13, Collin shows a hands-free speakerphone (col. 1, lines 8-17) comprising:

A housing (figs. 3, 5-7) having a first face (key side 12) and a back face (back, opposite to 12) each having a perimeter, and a curved side face (side face, location of 24, 26) extending between the front and back faces along at least a portion of their respective perimeters, the housing (figs. 3, 5-7) forming a plurality of speaker ports (24, 26) formed in a spaced apart relationship along the curved side face,

Wherein the curved side face (location of 24, 26) of the housing (figs. 3, 5-7) possesses curvature (see fig. 7) to avoid a seal being formed between the speakerphone and the ear of a user placing at least one of the speaker ports (24, 26) proximate to the user's ear.

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Collin differs from the claimed invention in that it does not explicitly show that the speaker ports (24, 26) are formed in an elongated recess formed along the curved side face.

However, it is notorious well known that the front and back portions of the phone usually are detachable, and an elongated recess formed between the front and back portions for mating the front and back portion together. This is shown by Andersen, such as the raised portion and the elongated recess (see location of 43 in Andersen).

Therefore, if it is found that Collin has no elongated recess for mating the front and back portions together, then it would have been obvious for one skilled in the art to use Andersen's conventional mounting of the front and back portions in Collin, or to apply Collin's phone design in the phones shown by Andersen, because conventional phones usually have detachable front and back portions which forms the elongated recess. And according to the positions of Collin's speaker ports (24, 26), these speaker ports are located proximate to or formed in the elongated recess.

Regarding claims 3-4, 8, 14, 17-18, Collin shows the speaker ports which are on the side walls (col. 2, lines 55-65), and the front and back portions.

Collin differs from the claimed invention in that it does not explicitly show a parting line between the front and back portions, including the mating surfaces having a raised portion and an elongated recess.

However, it is notorious well known that the front and back portions of the phone usually are detachable, and an elongated recess formed between the front and back portions

for mating the front and back portion together. This is shown by Andersen, such as the raised portion and the elongated recess (see location of 43 in Andersen).

Therefore, if it is found that Collin has no elongated recess for mating the front and back portions together, then it would have been obvious for one skilled in the art to use Andersen's conventional mounting of the front and back portions in Collin, or to apply Collin's phone design in the phones shown by Andersen, because conventional phones usually have detachable front and back portions which forms the elongated recess. And according to the positions of Collin's speaker ports (24, 26), these speaker ports are located proximate to or formed in the elongated recess.

6. Claims 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

ARGUMENT

7. In response to the remarks filed on 12-20-04, applicant mainly argues that Collin does not illustrate about a parting line and an elongated recess. The examiner agrees. However, these features are conventional features in phones, and Andersen shows such conventional features, see rejections above.


Applicant further argues that Collin's openings 26 are on the back face. The examiner disagrees. Collin's openings 26 are in the same positions as openings 24, they are all located on the side face 19. See also rejections above.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 703-305-4728. The examiner can normally be reached on Mon.-Fri. from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7483.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jack Chiang
Primary Examiner
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